

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

Index No.: \_\_\_\_\_/19

-----X  
JOHN DOE,Plaintiff designates  
ALBANY COUNTY  
as place of trial.Plaintiff,  
-against -The basis of venue is  
Defendant's principal  
place of businessROMAN CATHOLIC DIOCESE OF ALBANY,  
and OUR LADY OF MERCY CHURCH,SUMMONS

Defendants.

Plaintiff's residence  
address is in Albany, NY-----X  
To the above-named defendants:

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York): and in case your failure to appear or answer, judgement will be taken for the relief demanded herein.

**A COPY OF THIS SUMMONS WAS FILED WITH THE CLERK OF THE COURT, ALBANY COUNTY ON \_\_\_\_\_ IN COMPLIANCE WITH CPLR §§305(a) AND 306(a).**

Dated: New York, New York  
August 29, 2019

MERSON LAW, PLLC

By: Jordan Merson  
Jordan K. Merson  
Attorneys for Plaintiff  
150 East 58<sup>th</sup> Street 34<sup>th</sup> Floor  
New York, New York 10155  
(212) 603-9100

TO:

**ROMAN CATHOLIC DIOCESE OF ALBANY**

40 N. Main Avenue, #4,  
Albany, NY 12203

**OUR LADY OF MERCY CHURCH**

26 Wilson Ave  
Albany, NY 12205

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

Index No.: \_\_\_\_\_/19

-----X  
JOHN DOE,Plaintiff,  
-against -**VERIFIED  
COMPLAINT**ROMAN CATHOLIC DIOCESE OF ALBANY,  
and OUR LADY OF MERCY CHURCH,

Defendants.

-----X  
Plaintiff,<sup>1</sup> above named, complaining of the defendants, by **MERSON LAW, PLLC.**,  
respectfully allege(s):**NATURE OF THE CLAIM**

1. This is a case of plaintiff, JOHN DOE who was sexually abused as a child by Father Alan Jupin ("Jupin") at and of the Roman Catholic Diocese of Albany (the "Diocese").
2. Jupin was a priest at Our Lady of Mercy Church ("Church") in Albany, New York which was part of the Diocese. Jupin was known among the community and the children as a sexual predator.
3. Despite the Diocese's knowledge that Jupin sexually abused children and/or had the propensity to sexually abuse children, the Diocese allowed Jupin unfettered access to children, including on Diocese premises and property.
4. In approximately 1988 and continuing through 1989, while under the scope of employment with the Diocese and while acting on behalf of the Diocese, Jupin would groom, recruit, solicit and/or manipulate Mr. Doe, then approximately eleven and twelve

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<sup>1</sup> Plaintiff uses a pseudonym because he is a victim of a sex crime pursuant to N.Y. Civ. Rights § 50-b and other statutory and common law principles.

years old, to go to at his apartment under the guise of studying the bible and would forcefully molest, fondle and perform oral sex on Mr. Doe as well as other forms of sexual abuse.

5. Mr. Doe brings this lawsuit to recover for the emotional and physical suffering he incurred because of the negligence of the Roman Catholic Diocese of Albany and to make sure no other child is forced to suffer the abuse and physical and mental trauma he felt and continues to feel.

#### **PARTIES**

6. At all times herein mentioned defendant **ROMAN CATHOLIC DIOCESE OF ALBANY** was a not for profit corporation incorporated in the State of New York and by virtue of the laws of the State of New York.
7. At all times herein mentioned, defendant **ROMAN CATHOLIC DIOCESE OF ALBANY** was located at 40 N. Main Avenue, #4, Albany, New York 12203.
8. At all times herein mentioned, Jupin was a priest operating under the direction and control of defendant **ROMAN CATHOLIC DIOCESE OF ALBANY**, and its agents, servants and/or employees.
9. At all times herein mentioned, Jupin was an agent, servant and/or employee of defendant **ROMAN CATHOLIC DIOCESE OF ALBANY**.
10. At all times herein mentioned defendant **OUR LADY OF MERCY CHURCH** was a not for profit corporation incorporated in the State of New York and by virtue of the laws of the State of New York.
11. At all times herein mentioned, defendant **OUR LADY OF MERCY CHURCH** was located at 26 Wilson Ave, Albany, NY 12205.

12. At all times herein mentioned, Jupin was a priest operating under the direction and control of defendant **OUR LADY OF MERCY CHURCH**, and its agents, servants and/or employees.
13. At all times herein mentioned, Jupin was an agent, servant and/or employee of defendant **OUR LADY OF MERCY CHURCH**.
14. At all times herein mentioned, **ROMAN CATHOLIC DIOCESE OF ALBANY** and **OUR LADY OF MERCY CHURCH** were agents, servants, employees and/or alter egos of each other.

#### **FACTS OF THE CASE**

15. Defendants **ROMAN CATHOLIC DIOCESE OF ALBANY** and **OUR LADY OF MERCY CHURCH**'s negligence and recklessness caused, allowed, encouraged and/or permitted Jupin have access to children despite its knowledge that Jupin sexually abused children and/or had the propensity to do so, and therefore are responsible for the injuries that Plaintiff incurred because but for Defendants **ROMAN CATHOLIC DIOCESE OF ALBANY** and **OUR LADY OF MERCY CHURCH**'s unlawful conduct, Plaintiff would not have suffered the mental and physical anguish inflicted by Father Jupin. Defendants **ROMAN CATHOLIC DIOCESE OF ALBANY** and **OUR LADY OF MERCY CHURCH**'s gross negligence, reckless, wanton, and/or willful conduct warrants punitive liability.
16. Jupin sexually abused Mr. Doe and many other young children of Our Lady of Mercy in Albany, New York. Nonetheless Defendants **ROMAN CATHOLIC DIOCESE OF ALBANY** and **OUR LADY OF MERCY CHURCH**'s failed to remove Jupin from his position as a priest or to take any steps to keep the dangerous predator away from children. In fact, the Diocese continued to allow, encourage and/or permit Jupin to have



unfettered access to children, including but not limited to on Diocese premises and property, and without any supervision whatsoever.

17. Jupin used Mr. Doe's desire to study the bible to manipulate him into coming to his apartment so that he could sexually abuse him.
18. Once at his apartment, Jupin would sit with Mr. Doe on a love seat, telling him it was so it would be easier for them to talk. Jupin would then run his hand up Mr. Doe's leg and fondle his penis. Jupin would remove Mr. Doe's pants and forcefully perform oral sex on Mr. Doe.
19. Jupin threatened Mr. Doe, pressured him and otherwise manipulated Mr. Doe into returning to his apartment each time.
20. Jupin sexually abused Mr. Doe approximately fifteen times.
21. Mr. Doe reported the abuse to another Church official, who did not take any action acknowledging that the Diocese accepted, approved, condoned, and ratified Jupin's sexual abuse of children.
22. As a result of the actions of Father Jupin, Mr. Doe felt and continues to feel ashamed and uncomfortable. Mr. Doe had endured and continues to suffer severe emotional distress due to the Diocese's negligence.
23. As such, Plaintiff suffered catastrophic and lifelong injuries as a result of Defendants **ROMAN CATHOLIC DIOCESE OF ALBANY** and **OUR LADY OF MERCY CHURCH's** negligence in undertaking a duty, including but not limited to in locis parentis and failing to protect the children of its parishes and of its community safe from Jupin, despite the Diocese having knowledge that Jupin sexually abused children and/or had the propensity to sexually abuse children, and/or allowing Jupin to continue to have his role and position of authority and power.

**AS AND FOR A FIRST CAUSE OF ACTION FOR NEGLIGENCE AS TO THE**  
**ROMAN CATHOLIC DIOCESE OF ALBANY**

24. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 23., inclusive, with the same force and effect as if hereinafter set forth at length.
25. At all times mentioned herein, defendant **ROMAN CATHOLIC DIOCESE OF ALBANY** owed a duty of care to keep the children of its parishes, including plaintiff, safe from sexual abuse by its clergymen under its supervision and control that ultimately befell the Plaintiff, including but not limited to in locis parentis, and they had a duty to supervise Jupin.
26. At all times mentioned herein, defendant **ROMAN CATHOLIC DIOCESE OF ALBANY** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiff to be sexually assaulted repeatedly.
27. As a result of the negligence of defendant **ROMAN CATHOLIC DIOCESE OF ALBANY** and/or its agents, servants and/or employees, plaintiff was caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
28. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
29. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.

30. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
31. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR A SECOND CAUSE OF ACTION FOR NEGLIGENCE AS TO OUR  
LADY OF MERCY CHURCH**

32. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 31., inclusive, with the same force and effect as if hereinafter set forth at length.
33. At all times mentioned herein, defendant **OUR LADY OF MERCY CHURCH** owed a duty of care to keep the children of its parishes, including plaintiff, safe from sexual abuse by its clergymen under its supervision and control that ultimately befell the Plaintiff, including but not limited to in locis parentis, and they had a duty to supervise Jupin.
34. At all times mentioned herein, defendant **OUR LADY OF MERCY CHURCH** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiff to be sexually assaulted repeatedly.
35. As a result of the negligence of defendant **OUR LADY OF MERCY CHURCH** and/or its agents, servants and/or employees, plaintiff was caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
36. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.



37. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.
38. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
39. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR A THIRD CAUSE OF ACTION FOR NEGLIGENT HIRING,**

**RETENTION AND SUPERVISION AS TO THE ROMAN**

**CATHOLIC DIOCESE OF ALBANY**

40. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 39., inclusive, with the same force and effect as if hereinafter set forth at length.
41. Defendant **ROMAN CATHOLIC DIOCESE OF ALBANY**, had a duty to supervise and prevent known risks of harm to children of its parishes, including plaintiff, by its clergymen.
42. Defendant was negligent in hiring, retaining and supervising their personnel, such as Father Jupin, who were careless, unskillful, negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of priests and church officials who should have properly been supervising the priests to ensure the safety of the children of the parishes.
43. Defendant **ROMAN CATHOLIC DIOCESE OF ALBANY** knew or should have known that Father Jupin sexually abused and/or had the propensity to sexually abuse children, including plaintiff, and did nothing to stop it.
44. As a result of such negligent hiring, supervising and retention, Plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental

anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

45. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
46. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.
47. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
48. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR A FOURTH CAUSE OF ACTION FOR NEGLIGENT HIRING,  
RETENTION AND SUPERVISION AS TO OUR LADY OF MERCY CHURCH**

49. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 48., inclusive, with the same force and effect as if hereinafter set forth at length.
50. Defendant **OUR LADY OF MERCY CHURCH**, had a duty to supervise and prevent known risks of harm to children of its parishes, including plaintiff, by its clergymen.
51. Defendant was negligent in hiring, retaining and supervising their personnel, such as Father Jupin, who were careless, unskillful, negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of priests and church officials who should have properly been supervising the priests to ensure the safety of the children of the parishes.
52. Defendant **OUR LADY OF MERCY CHURCH** knew or should have known that Father Jupin sexually abused and/or had the propensity to sexually abuse children, including plaintiff, and did nothing to stop it.

53. As a result of such negligent hiring, supervising and retention, Plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
54. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
55. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.
56. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
57. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR THE FIFTH CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF  
EMOTIONAL DISTRESS AS TO THE ROMAN CATHOLIC DIOCESE OF ALBANY**

58. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 57., inclusive, with the same force and effect as if herein set forth at length.
59. Defendant **ROMAN CATHOLIC DIOCESE OF ALBANY** and their agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Father Jupin, the priest who sexually abused Plaintiff, would and did proximately result in physical and emotional distress to Plaintiff.
60. Defendant **ROMAN CATHOLIC DIOCESE OF ALBANY** and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiff.

61. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff being sexually abused by Father Jupin.
62. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted Father Jupin sexually abusing Plaintiff.
63. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
64. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.
65. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
66. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR THE SIXTH CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF  
EMOTIONAL DISTRESS AS TO OUR LADY OF MERCY CHURCH**

67. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 66., inclusive, with the same force and effect as if herein set forth at length.
68. Defendant **OUR LADY OF MERCY CHURCH** and their agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Father Jupin, the priest who sexually abused Plaintiff, would and did proximately result in physical and emotional distress to Plaintiff.
69. Defendant **OUR LADY OF MERCY CHURCH** and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other


improper conduct would and did proximately result in physical and emotional distress to Plaintiff.

70. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff being sexually abused by Father Jupin.
71. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted Father Jupin sexually abusing Plaintiff.
72. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.
73. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.
74. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
75. This action falls within exceptions to Article 16 of the C.P.L.R.

WHEREFORE, plaintiff demands judgement against defendant in such sum as a jury would find fair, adequate and just.

Dated: New York, New York  
August 29, 2019

MERSON LAW, PLLC

By:   
Jordan K. Merson  
Attorney for Plaintiff  
150 East 58<sup>th</sup> Street 34<sup>th</sup> Floor  
New York, New York 10155  
(212) 603-9100



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

Index No.:

\_\_\_\_\_/19

-----X  
JOHN DOE,*Plaintiff,*

-against -

**ATTORNEY  
VERIFICATION**ROMAN CATHOLIC DIOCESE OF ALBANY,  
and OUR LADY OF MERCY CHURCH,*Defendants.*-----X  
JORDAN K. MERSON, an attorney duly admitted to practice in the Courts of New York  
State, and a member of the firm MERSON LAW, PLLC., attorneys for the plaintiff in the  
within action, hereby affirms under penalty of perjury:

That he has read the within complaint and knows the contents thereof, and that the same  
is true to his own knowledge, except as to the matters therein stated to be alleged upon  
information and belief, and that as to those matters he believes it to be true.

That the sources of his information and knowledge are investigations and records in the  
file.

That the reason this verification is made by affirmant and not by the plaintiff is that the  
plaintiff is not within the County where the attorney has his office.

Dated: New York, New York  
August 29, 2019

\_\_\_\_\_  
JORDAN K. MERSON

Index No.

Year 2019

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

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EDWARD AGRUSTI,

Plaintiff,

-against -

ROMAN CATHOLIC DIOCESE OF ALBANY, and  
OUR LADY OF MERCY CHURCH,

Defendants.

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SUMMONS AND VERIFIED COMPLAINT

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Merson Law, PLLC.

*Attorneys for Plaintiff(s)*

*Office and Post Office Address, Telephone*  
150 East 58<sup>th</sup> Street 34<sup>th</sup> Fl.  
New York, New York 10155  
(212) 603-9100

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To: All Parties

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